

PROVIDER ALERT

COMAR 10.63 LICENSED AGENCIES: LOSS OF REQUIRED STAFF AND SITE ADDRESS CHANGES

This is a critical reminder for COMAR 10.63 Licensed Agencies regarding key requirements when an expected or unexpected occurrence happens within your agency related to loss of required staff and site address changes. The requirements listed below have always been in effect for programs operating under the Public Behavioral Health System which utilize public funding under Medicaid or State only dollars for the uninsured population. Programs have a unique and essential responsibility to comply with all regulations pertaining to their program designation including planning for the continued care of their patients even when expected or unexpected circumstances arise.

LOSS OF REQUIRED STAFF

COMAR 10.63 requires that providers have certain “key” staff in order to operate. These include:

- *OMHC – Medical Director
- *OTP – Medical Director
- *PRP (Adult and Minor) – Rehabilitation Specialist

Medicaid Regulations under COMAR 10.09.06, 10.09.59 or 10.09.80 require other staff as well for specific programs.

In the event that a provider agency loses a key employee, the agency must immediately file for a variance to COMAR 10.63, or risk being found in violation of the regulations. To be actively enrolled under Medicaid, a provider must be in compliance with all applicable regulations, thus a provider is at risk of having all subsequent claims retracted when they do not meet the regulations and do not have documentation from BHA approving a temporary variance.

The variance request must be on the form specified by BHA (Form 4748 –Application for a Variance from a BHA Regulation) which can be found under “Paper Forms” here <https://bha.health.maryland.gov/Pages/Forms.aspx>

The variance must be submitted to:

1. BHA Accreditation and Licensing (bha.regulations@maryland.gov), and
2. The Local Designated Authority (CSA, LAA, LBHA)

The variance must outline:

- a. How the position will be covered while the position is rehired, including qualifications of covering staff.
- b. In detail, how the provider will conduct its search for a replacement.

BHA may require submission of proof of a good faith effort to obtain a replacement if the vacancy remains open for more than 2 months.

When the replacement is hired, the provider must notify the above parties, and provide the name and credentials of the individual hired.

CHANGES OF ADDRESS AND EXPANSION OF PROGRAMS

Before closing a licensed site, a COMAR 10.63 licensed provider is required to inform the Local Designated Authority (CSA, LAA, LBHA), BHA Licensing and, if applicable, Medicaid.

Before commencing operations at any site, the provider must obtain accreditation, a new Agreement to Cooperate and a COMAR 10.63 license on any new site. **Licenses are not transferable to new locations.**

In the event of an emergency change of address, it is incumbent on the provider to inform the Local Designated Authority and BHA Licensing prior to moving, so that contingency plans can be made to ensure continued licensure, or to ensure a transfer of patients should the need arise.